

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Petition of U S West Communications, Inc. ) CC Docket No. 99-1  
for Forbearance from Regulation as a )  
Dominant Carrier in the Seattle, )  
Washington )

**COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications, Inc. (SBC), on behalf of Southwestern Bell Telephone Company (SWBT), Pacific Bell, and Nevada Bell, and pursuant to the Public Notice<sup>1</sup> issued January 4, 1999 by the Federal Communications Commission (Commission), hereby comments upon the petition filed by U S West Communications, Inc. (U S West).

On December 30, 1998, U S West filed a petition requesting that the Commission exercise its authority to forbear from regulating U S West as a dominant carrier in the provision of high capacity services in the Seattle, Washington metropolitan statistical area (MSA), pursuant to Section 10 of the Communications Acts of 1934 (the Act), as amended by the Telecommunications Act of 1996 (1996 Act), 47 U.S.C. Section 160.

U S West shows that the Seattle area market for high capacity services is robustly competitive. U S West explains that it faces intense competition from both resellers and five established facilities-based competitors with substantial resources and extensive fiber networks. These companies have access to financial resources equal to or greater than U S West's with which to fund expansion of their networks.

U S West further demonstrates that it has steadily declining market share and that the competitive providers' market share has been growing even more swiftly than the rapid growth in the general demand for high capacity services in the Seattle area. U S West's analysis illustrates

<sup>1</sup> Public Notice, Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier for High Capacity Services in the Seattle, Washington Metropolitan Statistical Area, CC Docket No. 99-1, (DA-99-104), released January 4, 1999.

that typical purchasers of high capacity services — medium to large business and carriers — actively seek out alternative service proposals from several vendors. These purchasers are acutely sensitive to price and service accommodations, which characterize the market's high demand elasticity. Regarding supply elasticity, U S West clearly shows that facilities-based Seattle CLECs currently own multiples of capacity beyond that needed to accommodate the current demand for U S West's high capacity services. Major customers are located close enough to existing CLEC fiber routes to make the incremental investment and time needed to connect customers very manageable. Further, U S West does not enjoy an advantage in terms of its costs, structure, size and resources. CLECs nationwide have had no difficulty attracting large amounts of capital as evidenced by the over \$14 billion amassed by CLECs since passage of the 1996 Act.

Thus, judged by the standard economic concepts the Commission employs to assess a firm's market power, U S West has no ability to control price or output in the high capacity services market. No market control means no market power. Therefore, U S West seeks forbearance from various dominant carrier regulations, including the requirement that U S West file tariffs on up to 15 days notice with cost support, price cap and rate of return regulations, and requirements that U S West charge averaged rates throughout the State of Washington.

The petition shows in complete detail the competition facing U S West in the Seattle MSA. Given this level of proof, there should be no question that U S West is entitled to the relief it seeks. The Commission should now quickly act on this petition and on similar ones from the other incumbent local exchange carriers (ILECs). The SBC Companies have continued to face similar competition in their MSA, as described in the Petition for Forbearance filed by SBC on December 7, 1998. As shown there, the dedicated transport services in many of the SBC Companies' MSAs have reached competitive levels for which at least non-dominant regulatory treatment is past due.

The pricing flexibility relief sought by the SBC Companies through USTA's 1993 Access Reform Petition for Rulemaking, and the proposals made by USTA and the SBC Companies in CC Docket Nos. 94-1 and 96-262, were appropriate for the levels of competition that were then

present. The Commission must now, however, prepare to deal with regulatory forbearance in the transport market. The Telecommunications Act of 1996 permits petitions to request forbearance on a "by service" or on a "by geographic area" basis. The Commission must forthrightly deal with petitions such as the ones filed by U S West and SBC. No other competitive "triggers" that may be proposed or ordered in a pricing flexibility proceeding need to be met to justify the forbearance sought here.<sup>2</sup>

The Commission should also consider accelerating its timeframe for addressing petitions for forbearance of services like high capacity services when a clear demonstration is made that competition is successful. When such evidence exists, much less than the statutorily limited time for review should be taken, given the damage to the petitioner caused by any delay.

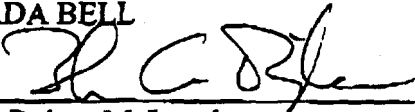
### CONCLUSION

For the foregoing reasons, the SBC Companies respectfully request that the U S West petition be granted expediently and that the Commission accelerate its timeframe for addressing petitions for forbearance of services like high capacity services when a clear demonstration is made that compensation is successful.

Respectfully submitted.

SBC COMMUNICATIONS INC.  
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February 18, 1999

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<sup>2</sup> Clearly, the markets for other products like operator services are competitive as well, and regulatory streamlining is long overdue for them also.

**Certificate of Service**

I, Mary Ann Morris, hereby certify that the foregoing "Comments of SBC Communications, Inc." in CC Docket 99-1 has been served on February 18, 1999 to the Parties of Record.

  
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Mary Ann Morris

February 18, 1999

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